

ORDINANCE NO. 20071129-040

AN ORDINANCE AMENDING CHAPTER 14-4 OF THE CITY CODE RELATING TO SIDEWALK CAFÉS AND AMENDING THE 2007-08 FEE SCHEDULE IN ORDINANCE NO. 20070910-008 TO ADD A SIDEWALK CAFÉ APPLICATION FEE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 14-4-1(5) (*Definitions*) of the City Code is amended to repeal and replace the definition of “sidewalk café” to read:

- (5) SIDEWALK CAFÉ means an outdoor dining area that:
 - (a) is associated with a restaurant as defined in Section 25-2-4 (*Commercial Uses Described*);
 - (b) is located on a sidewalk adjacent to and within the span of the façade of the restaurant; and
 - (c) contains removable tables, chairs, planters or other appurtenances.

PART 2. Section 14-4-3 (*Sidewalk Café License Authorized*) of the City Code is amended to amend Subsection (B) to read:

- (B) The director shall establish licensure criteria and requirements under this chapter, including:
 - (1) those necessary to protect public use of a street or a public utility company;
 - (2) required clearances between the sidewalk café and utility lines as prescribed by the Building Code;
 - (3) a requirement that the licensee provide the City with a cash or surety bond sufficient to cover the cost to the City or a public utility to remove the sidewalk café, if necessary;
 - (4) a requirement that the licensee pay the cost to relocate a City or public utility facility or improvement in a public street in connection with the installation of the sidewalk café; [~~and~~]

- (5) authorization for the City or a public utility to remove, without liability, part of the sidewalk café if necessary to obtain access to a City or public utility facility or improvement; and
- (6) a requirement that the licensee post a sketch of the licensed premise in a public place near the licensee's food and beverage certificate issued by the Texas Alcoholic Beverage Commission.

PART 3. Section 14-4-4 (*Restrictions on Features of Sidewalk Café*) of the City Code is amended to amend Subsection (A) and (B) and to add Subsection (D) to read:

- (A) A sidewalk café operated under this chapter:
 - (1) may have no more than ten [~~six~~] free standing tables, each with a surface area [~~diameter~~] of five feet or less;
 - (2) may not be enclosed by fixed walls or other permanent structure; and
 - (3) must be open to the air, except that a canopy conforming to requirements established by the department may be constructed over the sidewalk café.
- (B) A sidewalk café operated with eleven [~~seven~~] or more free standing tables must comply with Section [~~Sections~~]14-11-1 (*Application Required*), Section 14-11-21 (*Additional Application Requirements for Release of Public Easement*), and Article 1, Division 3 (*License for Private Use of Public Property*) of Chapter 14-11 (*Use of Right-of-Way*) instead of this chapter.
- (D) Any portion of a sidewalk café in which alcoholic beverages are served must be secured by removable balustrades, planters, or other appurtenances.

PART 4. Section 14-4-6(B) (*Application Required*) of the City Code is amended to read:

- (B) An application under this chapter must include:
 - (1) an application fee as established by separate ordinance;
 - (2) proof of fee title ownership to the real property under the public street and, if applicable, lessor authorization;
 - (3) a certified preamble and sketch completed by a surveyor; [a map or plat showing the area to be licensed;]
 - (4) information on the type of sidewalk café to be established, including:

- (a) the number and placement of tables, chairs, and other furnishings; and
- (b) the name and address of the adjacent restaurant that will serve the sidewalk café;
- (5) proof of general commercial liability insurance coverage in the amount established by the department to protect the City's interest; and
- (6) other information required by the department.

PART 5. Section 14-4-9(A) (*License Agreement Execution and Delivery*) of the City Code is amended to read:

- (A) The director shall prepare and deliver to the applicant a [~~one-year~~] license agreement for a term not to exceed five years on a form approved by the director for an application approved under this chapter. The agreement may include a provision for renewal or extension of the license.

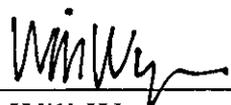
PART 6. The 2007-08 Fee Schedule attached as Exhibit "A" to Ordinance No. 20070910-008 is amended to add a "Sidewalk Café Application" fee of \$100 for the Watershed Protection and Development Review Department, as follows:

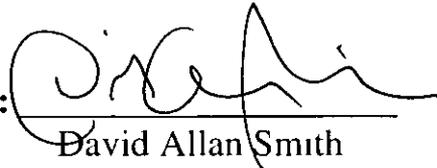
	Approved	Approved	
	<u>2006-07</u>	<u>2007-08</u>	<u>Change</u>
<i>Watershed Protection & Development Review Department – General Fund</i>			
Public Market Area Permits			
Vendor Application Fee	\$150.00 each	\$150.00 each	
Annual Space Rental Fee	\$400.00 each	\$400.00 each	
<u>Sidewalk Café Application</u>	None	<u>\$100.00</u>	
Street Space Permit	\$10.00 space per day	\$10.00 space per day	
	\$35.00 admin. fee/application	\$35.00 admin. fee/application	

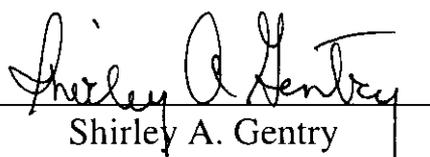
PART 7. This ordinance takes effect on December 10, 2007.

PASSED AND APPROVED

November 29, 2007

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§ _____

Will Wynn
Mayor

APPROVED: _____

David Allan Smith
City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk